

REMARKS

Reconsideration of the current rejection of claims 1-3 and 20, as presented in the Office Action of August 12, 2003 and maintained in the Advisory Action of January 16, 2004, is respectfully requested in view of the following remarks.

1. Amendment to Claim 1

As proposed during the interview between the Examiner and Applicants' Attorney on December 5, 2003, claim 1 has been amended to recite that the "first and second ink areas do not intermingle with one another." This amendment has been provided to improve the definition of the acute and discrete borderline.

Support for this amendment is clearly found on page 3, lines 24-26 in the specification of the present application.

As will be discussed more fully below, Applicants submit that there is no disclosure or suggestion of the borderline of claim 1 of the present application, especially in view of the definition now provided in claim 1.

Approval of the amendment to claim 1 is respectfully requested in the next Action.

2. New Claim 23

Similar to the amendment to claim 1, the provision of adding new claim 23 was proposed at the aforementioned interview. Claim 23 recites that the first and

second ink areas join at the borderline. Support for this amendment is clearly found on page 3, lines 14-22 of the specification of the present application.

Approval of new claim 23 is respectfully requested in the next Action.

3. Rejection of claims 1-3 and 20 as being obvious in view of GB 1 390 302 (Hutton et al.)

In view of the comments provided in the remarks accompanying the Amendment filed on December 12, 2003 and the following remarks, Applicants respectfully submit that the disclosure of Hutton et al., when considered as a whole, fails to disclose or suggest the data medium of claim 1 of the present application. Specifically, Hutton et al. fail to disclose or suggest a data medium having first and second ink areas separated by a discrete and acute borderline that is not visible to the naked eye and configured so that the first and second ink areas do intermingle with one another. Moreover, there is no objective teaching provided in the disclosure of Hutton et al. that suggests the desirability of providing a borderline in a data medium of the type recited in claim 1, and thus would motivate one of ordinary skill in the art to make the claimed data medium of claim 1 of the present application.

As discussed previously, during the interview the Examiner presented to Applicants' representative a copy of U.S. Patent 4,033,059 (Hutton et al.) which is a family member of GB 1 390 302, both references claiming priority from Canadian Patent 146533. The drawings in the disclosure of Hutton et al. are of superior quality over the same drawings shown in GB 1 390 302. Accordingly, Applicants will hereafter refer to the U.S. disclosure of Hutton et al. despite the citation of GB 1 390 302 in the outstanding Office Action due to it being a clearer copy than the copy of GB 1 390 302 previously provided to Applicants.

As was submitted in the response to the last Office Action, this rejection appears based merely on an interpretation of FIG. 15 in the disclosure of Hutton et al. that finds no objective support in the actual written description of Hutton et al. As is well understood, particular findings must be made as to the reason a skilled artisan with no knowledge of the claimed invention would have selected the components found in cited prior art references. When reviewed as a whole, Applicants submit that the interpretation of FIG. 15 is incongruous with the basic disclosure of Hutton et al, and accordingly, the interpretation of FIG. 15 does not find any specific support in the written description of Hutton et al.

In the last Action, it was explained that FIG. 15 of Hutton et al. shows a data medium including background intaglio lines 53 and image forming intaglio lines 55 wherein a borderline adjacent to such ink areas is not visible to the naked eye. Applicants respectfully disagree. It is clear from the disclosure of Hutton et al. that FIG. 15 is merely a schematic view of an embodiment of an intaglio imprint and thus, FIG. 15 lacks sufficient detail that would tend to convey to one skilled in the art the critical feature of the borderline of the present invention. Moreover, Applicants submit that FIG. 15 is not shown true to scale and insofar of its interpretation, one skilled in the art is required to interpret FIG. 15 in view of the other drawing figures and the written specification.

Apparently, the other drawing figures 12-14 associated with the embodiment illustrated in FIG. 15 have been ignored.

FIG. 15 is an enlarged schematic sectional view of FIG. 12 which shows an embodiment of an intaglio imprint of the invention of Hutton et al. From viewing FIG. 12, it is clear that there is indeed a clearance between the adjacent ink areas. While in the drawings FIG. 15 may be hard to discern at certain portions thereof, it is clear

from the description of the embodiment in FIGS. 12-15 that the background lines 53 and image lines 55 are generally parallel relative to one another (col. 16, lines 40-48), and as such, background lines 53 and image lines 55 are clearly spaced from one another in FIG. 12.

As was pointed out during the interview, Applicants maintain that there are indeed clearances between adjacent background and image lines in FIG. 15 as presently published in both disclosures of Hutton et al., whether GB 1 390 302 or U.S. 4,033,059. While the distance of each clearance between the background and image lines varies in FIG. 15, such variance appears more as an indication of poor patent copies than an objective teaching of acute and discrete borderlines actually found in the invention of Hutton et al. Thus, due to the variance of the clearance distances in FIG. 15, Applicants maintain that FIG. 15 cannot reasonably be relied upon as a suitable objective teaching of acute and discrete borderlines between adjacent ink areas.

As a courtesy, Applicants submit herewith a copy of FIG. 15 of U.S. 4,033,059 showing in highlights the clearances between adjacent background and image lines 53, 55. In view of FIG. 15, it appears that the Examiner has chosen to select certain adjacent background and image lines to support his assertion of acute and discrete borderlines while ignoring other adjacent background and image lines whereat there are distinct clearances. This, Applicants maintain, amounts to impermissible hindsight vision afforded by the claimed invention. Other than selective interpretations of FIG. 15, what can be used to base to this rejection on the disclosure of Hutton et al.

Applicants submit that the written description of Hutton et al. fails to provide a rationale for varying clearances between adjacent background and image lines. In

fact, the disclosure of Hutton et al. affirms throughout its description that the adjacent ink areas must always be spaced apart in order to obtain a tilt effect wherein the image lines and the background lines visually blend with one another in one angle of view, and wherein at another angle of view the image lines are clearly visible in contrast to the background lines.

It is explained in the introduction of the disclosure of Hutton et al. that the image and background lines are substantially parallel spaced (col. 8, lines 14-24). While the disclosure of Hutton et al. indicates that it is within the invention to employ types of arrangements wherein image and background lines are other than parallel, it will be pointed out that there is nothing in the description that disaffirms the spacing of the image and background lines by a clearance. Moreover, while it is disclosed that the image and background lines may be other than parallel, the patterns that are described in the invention are either rows or lines of dots which are spaced apart (col. 11, lines 28-40; col. 14, lines 27-46 describing "other" spaced and raised inked patterns).

In addition, it will be noted that nowhere in the disclosure of Hutton et al. is there any mention of not only an acute and discrete borderline, but a borderline wherein adjacent ink areas do not intermingle as presently recited in amended claim 1. Furthermore, nowhere is there a disclosure or suggestion by Hutton et al. of a data medium having the borderline configuration of claim 1 wherein first and second ink areas join at the borderline.

During the interview, Applicants representative pointed out to the Examiner that the disclosure of Hutton et al. was published in 1973. At that time, intaglio printing was to be understood as manual engraving or etching. Manual engraving and etching methods result in printed images in which individual engraved

depressions form spaced apart color areas. It was understood that if the impressions formed from manual engraving or etching methods are too close together, a blurring of the ink areas will occur in the printed ink areas. Each of such methods known and used at the time the disclosure of Hutton et al. was published, therefore, did not permit the arrangement of adjacent ink areas directly in contact with one another. Thus, it is advanced by Applicants that the reason the disclosure of Hutton et al. refers to the image and background lines as being spaced from one another is because it was the only known arrangement to one skilled in the art in 1973.

Contrary to the disclosure of Hutton et al., an inventive aspect of the present application is that neighboring ink areas in the present invention are indeed directly adjacent to one another without ink blending or flowing into one another. More specifically, there is no visible area to the naked eye between adjacent ink areas in the intaglio printed image of the present invention unlike in the printed images produced by the known methods of intaglio printing used at the time the disclosure of Hutton et al. was published.

Thus, in view of these observations, Applicants submit that claim 1 is not rendered obvious by the disclosure of Hutton et al. Claims 2-3, 20 and 23, which depend from claim 1, are thus patentable based on their dependency from claim 1 and their individually recited features. Withdrawal of the rejection is respectfully requested.

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4. Conclusion

In view of the amendment to claim 1 and new claim 23, and further in view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that claims 1-3, 20 and 23 be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the Applicants' Attorney, the Examiner is invited to contact the undersigned at the numbers shown below.

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amendment 120204.wpd

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Justin J. Cassell', written in a cursive style.

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